



WEB COPY



W.P.No.27509 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.27509 of 2018

&

W.M.P.Nos.32020 of 2018 and 4537 of 2020

M.Shaik Abdullah

... Petitioner

Vs.

1. The Deputy Chief Controller of Explosives,
Shastri Bhavan, Haddows Road,
Chennai – 6.
2. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai – 7.
3. The Commissioner,
Chennai Corporation,
Rippon Buildings,
Chennai – 3.
4. The Superintendent of Police,
Cyber Cell, CBCID, Egmore,
Chennai – 8.
5. The Group Co-ordinator,
Cyber Law Division,
Ministry of Electronic and
Information Technology,
Government of India,
New Delhi – 110 003.



W.P.No.27509 of 2018

6. Union of India,
Represented by the Secretary,
Ministry of Electronic and
Information Technology,
Government of India,
NIKETON, No.6, CGO Complex,
Lodhi Road,
New Delhi.

7. Union of India,
Represented by the Secretary,
Department of Telecommunications,
Ministry of Communications,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the respondent Nos.1 to 3 to consider the petitioner's representation dated 23.09.2018 to issue prohibitory orders restraining the retail sales of crackers through online trade.

For Petitioner : Mr.G.Ravikumar

For Respondents :

For R1,R5 to R7 : Mr.V.Ashok Kumar
Central Government Standing Counsel

For R2 & R4 : Mrs.P.Rajarajeswari
Government Advocate

For R3 : Mr.P.T.Ramadevi
Standing Counsel.



W.P.No.27509 of 2018

ORDER

WEB COPY

This writ petition has been filed for a mandamus to direct the Respondent Nos.1 to 3 to consider the petitioner's representation dated 23.09.2018, to issue prohibitory orders restraining the retail sales of crackers through online trade and to pass further orders.

2. In this connection, the petitioner has placed reliance on the order passed by the Hon'ble Supreme Court of India by its impugned order dated 29.10.2021 in I.A.No.44727 of 2021 in W.P.(C)No.728 of 2015.

3. A specific reference was made to paragraph 4 of the aforesaid order, wherein, a reference was made to an earlier order passed by the Hon'ble Supreme Court in 2019 13 SCC 523. Paragraph 48.5 from 2019 13 SCC 523 reads as under:

“48.5 No e-commerce websites, including Flipkart, Amazon, etc., shall accept any online orders and effect online sales. Any such e-commerce companies found selling crackers online will be hauled up for contempt of court and the Court may also pass, in that eventuality, orders of monetary penalties as well.”



W.P.No.27509 of 2018

WEB COPY

4. It is submitted that despite order passed by the Hon'ble Supreme Court, the respondents have not taken any steps for implementing the Court's order by ensuring that there is no online trading of crackers through on line websites.

5. It is submitted that even today there are several advertisement which are notifying the purchase of crackers through online platform contrary to the decision of the Hon'ble Supreme Court.

6. It is submitted that such sale is not only is in violation of the Explosives Act and Rules made thereunder but also affects the sales of all those who are in off line sellers/retailers who sell crackers in compliance with the requirements of the Explosive Act and the Rules made there under.

7. It is further submitted that by an order dated 24.10.2019, the Respondent Nos.4 to 7 were also impleaded. However as a law enforcing authority, the respondents have not taken any steps for implementing the order of the Hon'ble Supreme Court.



W.P.No.27509 of 2018

WEB COPY 8. The writ petition is opposed by the learned counsels for the respondents stating that the petitioner had secured an interim order on 16.10.2018 in W.P.No.27509 of 2018. After perusing the impugned order, it was ascertained that the impugned order was valid only until 15.11.2018 and that since, there was no further orders was passed by this Court, the enquiry was closed by the Inspector of Police, Cyber Crime Sell, Central Crime Branch-I, Chennai.

9. It is further submitted that the petitioner had also filed a contempt petition in Cont.P.No.1757 of 2019 before this Court and the same was also closed on 01.11.2019.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsels for the respondents.

11. The first respondent namely the private entrepreneur has filed a counter in W.M.P.No.34057 of 2019 in W.P.No.27509 of 2018.



W.P.No.27509 of 2018

12. The decision of the Hon'ble Supreme Court referred to supra in 2019 13 SCC 523 is clear. There is a clear embargo on the sale of crackers through e-commerce website. The Hon'ble Supreme Court has made clear that any such e-commerce companies found selling crackers online will be hauled up for contempt of court and the court may also pass, in that eventuality, orders of monetary penalties as well as the law enforcing authorities in the State. The official respondents herein are duty bound to implement the aforesaid order of the Hon'ble Supreme Court of India by ensuring that there is no online trading of crackers through various web portals.

13. Under these circumstances, the respondents are directed to ensure the order of the Hon'ble Supreme Court strictly complied and is not violated.

14. The writ petition stands disposed of in terms of the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

18.10.2022

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
rgm
To



W.P.No.27509 of 2018

1. The Deputy Chief Controller of Explosives,
Shastri Bhavan, Haddows Road,
Chennai – 6.
2. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai – 7.
3. The Commissioner,
Chennai Corporation,
Rippon Buildings,
Chennai – 3.
4. The Superintendent of Police,
Cyber Cell, CBCID, Egmore,
Chennai – 8.
5. The Group Co-ordinator,
Cyber Law Division,
Ministry of Electronic and
Information Technology,
Government of India,
New Delhi – 110 003.
6. Union of Inida,
Represented by the Secretary,
Ministry of Electronic and
Information Technology,
Government of India,
NIKETON, No.6, CGO Complex,
Lodhi Road,
New Delhi.
7. Union of Inida,
Represented by the Secretary,
Department of Telecommunications,
Ministry of Communications,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi.



WEB COPY



W.P.No.27509 of 2018

C.SARAVANAN, J.

rgm

W.P.No.27509 of 2018

&

W.M.P.Nos.32020 of 2018 and 4537 of 2020

18.10.2022